

**ASSEMBLY BILL**

**No. 619**

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**Introduced by Assembly Member Garcia**

February 20, 2013

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An act to amend Section 70377 of the Government Code, relating to court facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 619, as introduced, Garcia. Court facilities.

Existing law establishes the State Court Facilities Construction Fund for the planning, design, construction, rehabilitation, renovation, replacement, leasing, or acquisition of state court facilities. Existing law levies a state court construction penalty, as specified, upon every fine, penalty, and forfeiture imposed and collected for all criminal offenses and all parking offenses for which a parking penalty, fine, or forfeiture is imposed. Moneys deposited in the county treasury under those provisions must be transmitted to the Controller for deposit in the State Court Facilities Construction Fund. Existing law further requires that any amounts required to be transmitted by a county to the Controller under these provisions be remitted no later than 45 days after the end of the month in which the penalties were collected. Any remittance made later than this time is considered delinquent and is subject to specified penalties. Upon receipt of a delinquent payment, the Controller is required to calculate a penalty on the delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to 1 ½% per month for the number of days the payment is delinquent. Existing law requires the county to pay the penalty amount calculated pursuant to these provisions to the Controller, as specified,

and requires the Controller to deposit these moneys in the State Court Facilities Construction Fund.

This bill would require the Controller to calculate the interest on the delinquent payment, as specified, and would revise the formula for calculating the penalty. The bill would also require a county, city and county, or court to pay the interest or penalty amounts calculated under these provisions, as specified, to the State Court Facilities Construction Fund. The bill would authorize the Controller to permit a county, city and county, or court to pay the interest or penalty amounts under a payment schedule if the interest or penalty amount causes a hardship to that entity. Further, the bill would require that payment be made by the entity responsible for the error or other action that caused the failure to pay, as determined by the Controller in a notice given to that party by the Controller, and would define that entity as including a party that collects the funds but is not responsible for remitting them to the state if that party failed to provide or delayed providing the remitting party with information necessary for remitting the funds. The bill also provides that these changes apply to all delinquent payments for which the Controller has not issued a final audit before January 1, 2014.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 70377 of the Government Code is  
2 amended to read:  
3 70377. (a) Any amounts required to be transmitted by a county  
4 *or city and county, or court to the Controller state pursuant to this*  
5 *article section shall be remitted to the State Treasurer no later than*  
6 *45 days after the end of the month in which the fees, assessments,*  
7 *or penalties were collected. This remittance shall be accompanied*  
8 *by a remittance advice identifying the collection month and the*  
9 *appropriate account in the State Court Facilities Construction*  
10 *Fund or the Immediate and Critical Needs Account of the State*  
11 *Court Facilities Construction Fund to which it is to be deposited.*  
12 Any remittance made later than this time shall be considered  
13 delinquent and subject to the *interest and* penalties specified in  
14 this section.  
15 (b) Upon receipt of any delinquent payment required pursuant  
16 to this section, the Controller shall ~~calculate a penalty on any~~

~~delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to 1 ½ percent per month for the number of days the payment is delinquent. do the following:~~

*(1) Calculate the interest on the delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to the rate of return on money deposited in the Local Agency Investment Fund pursuant to Section 16429.1 from the date the payment was originally due to either 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay or the date of payment by the entity responsible for the delinquent payment, whichever comes first. In calculating the interest under this paragraph, the Controller shall apply the average monthly Local Agency Investment Fund rate over the period of delinquency.*

*(2) Calculate a penalty at a daily rate equivalent to 1 ½ percent per month from the date 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay.*

*(c) ~~Penalty-Interest~~ or penalty amounts calculated pursuant to subdivision (b) shall be paid by the county, city and county, or court to the ~~Controller~~ State Court Facilities Construction Fund or the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, whichever is appropriate, no later than 45 days after the end of the month in which the interest or penalty was calculated. ~~All money received by the Controller under this section shall be deposited in the State Court Facilities Construction Fund.~~ Payment shall be made by the entity responsible for the error or other action that caused the failure to pay, as determined by the Controller in a notice given to that party by the Controller.*

*(d) ~~If the penalty imposed by this section results from a court's failure to comply with the requirements for timely deposit of money with the county treasury, the court shall reimburse the county general fund in an amount equal to the actual penalty.~~ Notwithstanding Section 77009, the court may pay this any penalty or interest imposed pursuant to this section due to an error or other action by the court from money received from the Trial Court Trust Fund. This section does not require an increase in a court's allocation from the Trial Court Trust Fund.*

1     (e) *The Controller may permit a county, city and county, or*  
2     *court to pay the interest or penalty amounts according to a payment*  
3     *schedule in the event of a large interest or penalty amount that*  
4     *causes a hardship to the paying entity.*

5     (f) *The party responsible for the error or other action that*  
6     *caused the failure to pay may include, but is not limited to, the*  
7     *party that collected the funds who is not the party responsible for*  
8     *remitting the funds to the State Court Facilities Construction Fund*  
9     *or the Immediate and Critical Needs Account of the State Court*  
10    *Facilities Construction Fund, if the collecting party failed to*  
11    *provide or delayed providing the remitting party with sufficient*  
12    *information needed by the remitting party to distribute the funds.*

13    (g) *The changes made to this section by the act adding this*  
14    *subdivision shall apply to all delinquent payments for which the*  
15    *Controller has not issued a final audit before January 1, 2014.*